

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 264 of 1998

WITH

SPECIAL CIVIL APPLICATIONS NOS.284,286,287,289 AND

290 OF 1998

For Approval and Signature:

Hon'ble MR.JUSTICE C.K.THAKKER and
MR.JUSTICE R.P.DHOLAKIA

- =====
1. Whether Reporters of Local Papers may be allowed to see the judgements?
 2. To be referred to the Reporter or not?
 3. Whether Their Lordships wish to see the fair copy of the judgement?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge?
- 1 to 5 - No

ADVANCE PAINTS PVT. LTD

Versus

UNION OF INDIA

Appearance:

MR JJ YAJNIK for Petitioner
MS AVANI S MEHTA for Respondent No. 2

CORAM : MR.JUSTICE C.K.THAKKER and
MR.JUSTICE R.P.DHOLAKIA

Date of decision: 27/01/98

ORAL JUDGEMENT (Per:C.K.Thakker,J.)

Rule. Ms.A.Mehta, learned Addl. Central Govt. Counsel appears and waives service of rule on behalf of respondent No.2. In the facts and circumstances of the case, all these matters have been taken up for final hearing.

.RS 2

#. In all these matters, a complaint is made that appeals as well as applications for interim relief were filed and are pending before appellate authority. Though they are not disposed of, coercive recovery is sought to be effected by the authorities. It was submitted that when no orders are passed on applications for interim relief, the respondent authorities may be restrained from effecting coercive recovery.

#. It was submitted that the point is covered by a decision of Division Bench of this Court in D.C.W. and others Vs. Commissioner (Appeals) and Others (1997) 38(2) GLR 913. In that case also, a similar question arose. No orders were passed on applications for interim relief and coercive recovery is sought to be effected. It was submitted that it was not open to authorities to effect coercive recovery when applications for interim relief were not decided. A direction was, therefore, issued to the appellate authority to consider and decide applications for interim relief.

#. In our opinion, the point is covered by D.C.W. and others (supra). All these petitions, therefore, deserve to be allowed and are accordingly allowed. The appellate authority is directed to dispose of the applications for interim relief as expeditiously as possible preferably within four weeks from the receipt of the writ. Till then, no coercive recovery will be effected by the department. Rule is accordingly made absolute. No order as to costs. The office is directed to keep the main judgment in Special Civil Application No.264 of 1998 and a copy of the same in each petition.

Sd/-

(C.K.Thakker,J.)

Sd/-

Dt: 27-1-1998 (R.P.Dholakia,J.)
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